

Billing Code: 3510-33-P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR parts 730, 732, 734, 736, 738, 740, 742, 744, 746, 748,
750, 752, 754, 756, 758, 762, 764, 768, 770, and 772

[Docket No. 970306044-7044-01]

RIN: 0694-AB56

Revisions and Clarifications to the Export Administration
Regulations

AGENCY: Bureau of Export Administration, Commerce

ACTION: Final rule.

SUMMARY: On March 25, 1996, the Bureau of Export Administration (BXA) published an interim rule (61 FR 12714) that restructured and reorganized the Export Administration Regulations (EAR). The interim rule clarified the language of the EAR and simplified the application and made the export control regulatory regime more

user friendly. This rule amends the EAR by making certain revisions and clarifications and, in some cases, inserts material inadvertently omitted from the March 25 interim rule.

DATES: This rule is effective (DATE OF PUBLICATION).

FOR FURTHER INFORMATION CONTACT: Patricia Muldonian, Office of Exporter Services, Bureau of Export Administration, Telephone: (202) 482-2440.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

1. This final rule has been determined to be not significant for the purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. This rule involves collections of information requirements subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). These collections have been approved by

the Office of Management and Budget under control numbers 0607-0001, 0607-0018, 0607-1052, 0694-00016, 0694-1017, 0694-0021, 0694-0029, 0694-0058, 0694-0093, 0694-0097, and 0694-0102. This rule also contains collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). These collections have been approved by the Office of Management and Budget under control numbers 0694-0050 and 0694-0088. Public reporting burden for these collections of information are estimated to average 30 minutes for 0694-0050 and 45 minutes for 0694-0088 respectively per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send suggestions regarding burden estimates or any other aspect of the data requirements, including suggestions for reducing the burdens to Steve Baker, Bureau of Export Administration, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attention: BXA Desk Officer.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. The provisions of the Administrative Procedure Act requiring notice of proposed rulemaking, the opportunity for

public participation, and a delay in effective date, are inapplicable because this regulation involves a military or foreign affairs function of the United States (see 5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., are inapplicable.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Patricia Muldonian, Office of Exporter Services, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects

15 CFR part 730

Administrative practice and procedure, Advisory committees, Exports, Foreign trade, Reporting and recordkeeping requirements, Strategic and critical materials.

15 CFR parts 732, 740, 748, 750, 752, 758, and 768

Administrative practice and procedure, Exports, Foreign trade, Reporting and recordkeeping requirements.

15 CFR part 734

Administrative practice and procedure, Exports, Foreign trade.

15 CFR parts 736, 738, 742, 770, and 772

Exports, Foreign Trade.

15 CFR part 744

Exports, Foreign Trade, Reporting and recordkeeping requirements.

15 CFR part 746

Embargoes, Exports, Foreign Trade, Reporting and recordkeeping requirements.

15 CFR part 754

Exports, Foreign trade, Forests and forest products, Petroleum, Reporting and recordkeeping requirements.

15 CFR part 756

Administrative practice and procedure, Exports, Foreign trade, Penalties.

15 CFR part 762

Administrative practice and procedure, Business and industry, Confidential business information, Exports, Foreign trade, Reporting and recordkeeping requirements.

15 CFR part 764

Administrative practice and procedure, Exports, Foreign trade, Law enforcement, Penalties.

Accordingly, parts 730, 732, 734, 736, 738, 740, 742, 744, 746, 748, 750, 752, 754, 756, 758, 762, 764, 768, 770, and 772 of the Export Administration Regulations (15 CFR Parts 730-799) are amended as follows:

1. The authority citation for 15 CFR Part 730 continues to read as follows:

Authority: 50 U.S.C. app. 2401 et seq.; 50 1701 et seq.; 10 U.S.C. 7430(e); 18 U.S.C. 2510 et seq.; 22 U.S.C. 287c; 22 U.S.C. 3201 et seq.; 22 U.S.C. 6004, Sec. 201, Pub. L. 104-58, 109 Stat. 557 (30 U.S.C. 185(s)); 30 U.S.C. 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app.

5; E.O. 11912, 41 FR 15825, 3 CFR, 1976 Comp., p. 114; E.O. 12002, 42 FR 35623, 3 CFR, 1977 Comp., p. 133; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12214, 45 FR 29783, 3 CFR, 1980 Comp., p. 256; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12867, 58 FR 51747, 3 CFR, 1993 Comp., p. 649; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; Notice of August 15, 1995 3 CFR, 1995 Comp. p. 501; E.O. 12981, 60 FR 62981; Notice of August 14, 1996, 61 FR 42527, August 15, 1996; E.O. 13026, 61 FR 58767, November 18, 1996.

2. The authority citations for 15 CFR Parts 732, 736, 740, 748, 750, 768, 770 and 772 continue to read as follows:

Authority: 50 U.S.C. app. 2401 et seq.; 50 1701 et seq.; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; Executive Order 13026, November 15, 1996, 61 FR 58767; Notice of August 15, 1995, 60 FR 42767, August 17, 1995; Notice of August 14, 1996, 61 FR 42527, 3 CFR, 1995 Comp., p. 501.

3. The authority citations for 15 CFR Parts 752, 756, 758, 762, and 764 continue to read as follows:

Authority: 50 U.S.C. app. 2401 et seq.; 50 1701 et seq.; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; Notice of August 15, 1995, 60 FR 42767, August 17, 1995; Notice of August 14, 1996, 61 FR 42527, 3 CFR, 1995 Comp. p. 501.

4. The authority citation for 15 CFR Part 734 continues to read as follows:

Authority: 50 U.S.C. app. 2401 et seq.; 50 U.S.C. 1701 et seq.; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; Notice of August 15, 1995, 60 FR 42767, August 17, 1995; Notice of August 14, 1996, 61 FR 42527, 3 CFR, 1995 Comp., 501; E.O. 13026, 61 FR 58767, November 19, 1996.

5. The authority citation for 15 CFR Part 738 continues to read as follows:

Authority: 50 U.S.C. app. 2401 et seq.; 50 u.S.C. 1701 et seq.; 10 U.S.C. 720; 10 U.S.C. 7430(e); 18 U.S.C. 2510 et seq.; 22 U.S.C. 287c; 22 U.S.C. 3201 et seq.; 22 U.S.C. 6004; Sec. 201, Pub. L. 104-58, 109 Stat. 557 (30 U.S.C. 185(s)); 30 U.S.C. 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; Notice of August 15, 1995, 60 FR 42767,

August 17, 1995; Notice of August 14, 1996, 61 FR 42527, 3 CFR, 1995 Comp., 501; E.O. 13026, 61 FR 58767, November 19, 1996.

6. The authority citation for 15 CFR Part 742 continues to read as follows:

Authority: 50 U.S.C. app. 2401 et seq.; 50 U.S.C. 1701 et seq.; 18 U.S.C. 2510 et seq.; 22 U.S.C. 3201 et seq.; 42 U.S.C. 2139a; E.O. 12058, 43 FR 20947, 3 CFR, 1994 Comp., p. 917; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917, E.O. 12938, 59 FR 59099, 3 CFR 1994 Comp., p. 950; Notice of August 15, 1995, 60 FR 42767, August 17, 1995; Notice of August 14, 1996, 61 FR 42527, 3 CFR, 1995 Comp., 501; E.O. 13026, 61 FR 58767, November 15, 1996.

7. The authority citation for 15 CFR Part 744 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 et seq.; 50 U.S.C. 1701 et seq.; 22 U.S.C. 3201 et seq.; 42 U.S.C. 2139a; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12581, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917, E.O. 12938, 59 FR 59099, 3 CFR 1994 Comp., p. 950; Notice of August 15, 1995, 60 FR 42767, August 17, 1995; Notice of

August 14, 1996, 61 FR 42527, 3 CFR, 1995 Comp., 501; E.O. 13026, 61 FR 58767, November 15, 1996.

8. The authority citation for 15 CFR Part 746 continues to read as follows:

Authority: 50 U.S.C. app. 2401 et seq.; 50 U.S.C. 1701 et seq.; 22 U.S.C. 287c; 22 U.S.C. 6004; E.O. 12918, 59 FR 28205, 3 CFR Comp., p. 899; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; Notice of August 15, 1995, 60 FR 42767, 3 CFR, 1995 Comp. p. 501; Notice of August 14, 1996, 61 FR 42527, August 15, 1996.

9. The authority citation for 15 CFR Part 754 continues to read as follows:

Authority: 50 U.S.C. app. 2401 et seq.; 50 U.S.C. 1701 et seq.; 10 U.S.C. 7430(e); Sec. 201, Pub. L. 104-58, 109 Stat. 557 (30 U.S.C. 185(s)); 30 U.S.C. 185(u); 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; Notice of August 15, 1995, 60 FR 42767, 3 CFR, 1995 Comp., p. 501; Notice of August 14, 1996, 61 FR 42527, August 15, 1996.

10. Section 730.9 is amended by revising paragraph (c) to read as follows:

§730.9 How the Bureau of Export Administration is organized.

* * * * *

(c) Technical Advisory Committees. (1) The Technical Advisory Committees (TACs) provide advice and assistance to BXA from U.S. industry regarding the creation and implementation of export controls. For further information regarding establishment of TACs and other information, see Supplement No. 2 to part 730. Existing TACs include the following:

- (i) The Information Systems TAC;
- (ii) The Materials TAC;
- (iii) The Materials Processing Equipment TAC;
- (iv) The Regulations and Procedures TAC;
- (v) The Sensors and Instrumentation TAC; and
- (vi) The Transportation and Related Equipment TAC.

(2) For more information. For information on attending a TAC meeting or on becoming a TAC member, please contact Ms. Lee Ann Carpenter, Director, TAC Unit, OAS-EA/BXA, Room 3886C, U.S.

Department of Commerce, Washington, DC 20230; Telephone number:
(202) 482-2583. FAX number: (202) 501-8024.

PART 732 - [AMENDED]

11. Section 732.1 is amended by revising the introductory text of paragraph (a)(1) to read as follows:

§732.1 Steps overview.

(a)(1) Introduction. In this part, references to the EAR are references to 15 CFR chapter VII, subchapter C. This part is intended to help you determine your obligations under the EAR by listing logical steps in §732.2 through §732.5 of this part that you can take in reviewing these regulations. A flow chart describing these steps is contained in Supplement No. 1 to part 732. By cross-references to the relevant provisions of the EAR, this part describes the suggested steps for you to determine applicability of the following:

* * * * *

12. Section 732.2 is amended:

a. By revising the introductory text immediately following the section heading;

- b. By revising paragraph (b)(1);
- c. By revising the introductory text to paragraph (d);
- d. By revising the phrase "consider Step 5 regarding" to read "consider Step 6 regarding" in paragraph (d)(3); and
- e. By revising the phrase "Federal Agency or unless publicly available" to read "Federal Agency or publicly available.)" in paragraph (f)(3)(ii).

§732.2 Steps regarding scope of the EAR.

Steps 1 through 6 are designed to aid you in determining the scope of the EAR. A flow chart describing these Steps is contained in Supplement No. 2 to part 732.

* * * * *

(b) * * *

(1) If your technology or software is publicly available, and therefore outside the scope of the EAR, you may proceed with the export or reexport if you are not a U.S. person subject to General Prohibition Seven. If you are a U.S. person, go to Step 15 at §732.3(j) of this part. If you are a U.S. person and General Prohibition Seven concerning proliferation activity of U.S. persons does not apply, then you may proceed with the export

or reexport of your publicly available technology or software. Note that all U.S. persons are subject to the provisions of General Prohibition Seven.

* * * * *

(d) Step 4: Foreign-made items incorporating less than the de minimis level of U.S. parts, components, and materials. This step is appropriate only for items that are made outside the United States and not currently in the U.S. Note that encryption items controlled for EI reasons under ECCN 5A002 or ECCN 5D002 on the Commerce Control List (refer to Supplement No. 1 to part 774 of the EAR) shall be subject to the EAR even if they incorporate less than the de minimis level of U.S. content. Accordingly, the provisions of the EAR concerning de minimis levels are not applicable to encryption items controlled for "EI" reasons under ECCNs 5A002, 5D002, or 5E002.

* * * * *

13. Part 732.3 is amended by revising paragraph (h)(2).

§732.3 Steps regarding the ten general prohibitions.

* * * * *

(h) * * *

(2) Under License Exception TSU (§740.13 of the EAR), operational technology and software (OTS), sales technology (STS), and software updates (SUD) overcome General Prohibition Five (End-Use and End-User) (§736.2(b)(5) of the EAR) if all terms and conditions of these provisions are met by the exporter or reexporter.

* * * * *

14. In part 732, Supplement No. 1 is redesignated as Supplement No. 3 and a new Supplement No. 1 and a new Supplement No. 2 are added to read as follows:

15. In part 732, newly designated Supplement No. 3 is amended by revising the phrase "for a validated license" to read "for a license" in paragraph (a)(6).

PART 734 - [AMENDED]

16. Section 734.3 is amended by revising paragraph (b)(4) to read as follows:

§734.3 Items subject to the EAR.

* * * * *

(b) * * *

(4) Foreign made items that have greater than the de minimis U.S. content based on the principles described in §734.4 of this part.

* * * * *

17. Section 734.4 is amended:

- a. By revising the introductory text to paragraph (c);
- b. By revising the phrase "U.S. origin" to read "U.S.-origin" in paragraph (c)(3); and

c. By revising the introductory text to paragraph (d), as follows:

§734.4 De minimis U.S. content.

* * * * *

(c) Except as provided in paragraph (a) of this section for certain computers, the following reexports are not subject to the EAR when made to either an embargoed country listed in part 746 of the EAR or to a terrorist-supporting country as described in part 742 of the EAR:

* * * * *

(d) Except as provided in paragraph (a) of this section for certain computers, for all other countries not included in paragraph (b) of this section the following reexports are not subject to the EAR:

* * * * *

18. Section 734.8 is amended:

a. By revising the citation reference "§732.10" to read "§734.11(b)" in paragraph (a);

b. By revising the citation reference "§732.11" to read "§734.11" in paragraph (b)(6); and

c. By revising the citation reference "§734.11" to read "§734.11(b)" in paragraph (d)(1).

19. Supplement No. 1 to part 734 is amended:

a. By revising the citation reference "§734.7(d)" to read "§734.7(a)" in the "Answer" to "Question B(1)";

b. By revising the citation reference "§734.7(d)(4)(ii)" to read "§734.7(a)(4)(ii)" in the "Answer" to "Question B(3)";

c. By revising the citation reference "§734.7(d)(4)(iii)" to read "§734.7(a)(4)(iii)" in the "Answer" to "Question B(5)"; and

d. By revising the citation reference "§734.7(d)" to read "§734.7(a)" in the "Answer" to "Question C(6)".

20. Supplement No. 2 to part 734 is amended:

a. By revising paragraph (a)(1)(ii);

b. By adding a "Note" immediately following paragraph (a)(4), and

c. By revising paragraph (b)(3), as follows:

(a) * * *

(1) * * *

(ii) In calculating the U.S. content value, do not include parts, components, or materials that could be exported from the United States to the new country of destination without a license (designated as "NLR") or under License Exception GBS (see part 740 of the EAR) or under NLR for items classified as EAR99.

* * * * *

(4) * * *

Note to paragraph (a) - U.S. origin peripheral or accessory devices that are merely rack mounted with or cable connected into foreign equipment are not deemed to be incorporated components even though intended for use with products made abroad. Rather, such items are treated as U.S. items that retain their identity and remain subject to the EAR.

(b) * * *

(3) Future software sales. For calculations of U.S.- content in foreign software, you shall include your historic and estimated future software sales in units and value along with the rationale and basis for those estimates in the report. Unlike parts incorporated into commodities, the cost of U.S. software

code will be attributed or allocated to the future sales of foreign-made software incorporating the U.S. code, to determine the percentage of U.S. controlled content. In making this calculation for foreign-made software, you must make an estimate of future software sales of that foreign software if it is commingled with or incorporated with the U.S. code. The value of the U.S. code commingled with or incorporated into the foreign made software shall be divided by the total selling price of all foreign-made software units already sold, plus the total selling price of all foreign-made software units estimated for future sales.

* * * * *

PART 736 - [AMENDED]

21. Section 736.2 is amended, as follows:
- a. By revising paragraph (b)(2)(ii);
 - b. By revising paragraph (b)(6)(ii); and
 - c. By revising paragraph (b)(8)(i).

§736.2 General prohibitions and determination of applicability.

* * * * *

(b) * * *

(2) * * *

(ii) Each License Exception described in part 740 of the EAR supersedes General Prohibition Two if all terms and conditions of a given License Exception are met by the exporter or reexporter.

* * * * *

(6) * * *

(ii) License Exceptions to General Prohibition Six are described in part 746 of the EAR, on Embargoes and Other Special Controls. Unless a License Exception or other authorization is authorized in part 746 of the EAR, the License Exceptions described in part 740 of the EAR are not available to overcome this general prohibition.

* * * * *

(8) * * *

(i) Unlading and shipping in transit. You may not export or reexport an item through or transit through a country listed in paragraph (b)(8)(ii) of this section unless a License Exception or license authorizes such an export or reexport directly to such a country of transit.

* * * * *

PART 738 - [AMENDED]

22. Section 738.2 is amended:

- a. By adding a new paragraph (d)(1)(iii); and
- b. By adding the entry "SI Significant Items"

following "XP Computers" in paragraph (d)(2)(i)(A)

- b. By revising paragraph (d)(2)(ii), as follows:

§738.2 Commerce Control List (CCL) structure.

* * * * *

(d) * * *

(1) * * *

(iii) The last digit within each entry (e.g., 3A001) is used for the sequential numbering of ECCNs to differentiate between entries on the CCL.

(2) * * *

(ii) License Exceptions. This section provides a brief eligibility statement for each ECCN-driven License Exception that may be applicable to your transaction, and should be consulted only AFTER you have determined a license is required

based on an analysis of the entry and the Country Chart. The brief eligibility statement in this section is provided to assist you in deciding which ECCN-driven License Exception related to your particular item and destination you should explore prior to submitting an application. The term "Yes" (followed in some instances by the scope of Yes) appears next to each available ECCN-driven License Exception. The term "N/A" will be noted for License Exceptions that are not available within a particular entry. If one or more License Exceptions appear to apply to your transaction, you must consult part 740 of the EAR to review the conditions and restrictions applicable to each available License Exception. The list of License Exceptions contained within each ECCN is not an all-exclusive list. Other License Exceptions, not based on particular ECCNs, may be available. Consult part 740 of the EAR to determine eligibility for non-ECCN-driven License Exceptions.

* * * * *

PART 740 - [AMENDED]

23. Section 740.1 is amended:

- a. By revising paragraph (a);
- b. By revising the citation reference "§732.6" to read "§736.2" in paragraph (d)(2). [two revisions]; and

c. By revising paragraph (e) to read as follows:

§740.1 Introduction.

* * * * *

(a) Scope. A "License Exception" is an authorization contained in this part that allows you to export or reexport under stated conditions, items subject to the Export Administration Regulations (EAR) that would otherwise require a license under General Prohibition One, Two, or Three, as indicated under one or more of the Export Control Classification Numbers (ECCNs) in the Commerce Control List (CCL) in Supplement No. 1 to part 774 of the EAR. If your export or reexport is subject to General Prohibitions Six for embargoed destinations, refer to part 746 of the EAR to determine the availability of any License Exceptions. Special commodity controls apply to short supply items. License Exceptions for items listed on the CCL as controlled for Short Supply reasons are found in part 754 of the EAR. If your export or reexport is subject to General Prohibition Five, consult part 744 of the EAR. If your export or reexport is subject to General Prohibitions Four, Seven, Eight, Nine, or Ten, then no License Exceptions apply.

* * * * *

(e) Destination Control Statement. You may be required to enter an appropriate Destination Control Statement on commercial documents in accordance with Destination Control Statement requirements of §758.5 and §758.6 of the EAR.

* * * * *

24. Section 740.2 is amended by revising paragraph (a) to read as follows:

§740.2 Restrictions on all License Exceptions.

(a) You may not use any License Exception if any one or more of the following apply:

(1) Your authorization to use a License Exception has been suspended or revoked, or your intended export does not qualify for a License Exception.

(2) The export or reexport is subject to one of the ten General Prohibitions, is not eligible for a License Exception, and has not been authorized by BXA.

(3) The item is for surreptitious interception of wire or oral communications, controlled under ECCN 5A980, unless you are

a U.S. Government agency (see §740.11(b)(2)(ii) of this part, Governments (GOV)).

(4) The commodity you are shipping is a specially designed crime control and detection instrument or equipment described in §742.7 of the EAR and you are not shipping to Iceland, New Zealand, or countries listed in Country Group A:1 (see Supplement No. 1 to part 740), unless the shipment is authorized under License Exception BAG, §740.14(e) of this part (shotguns and shotgun shells).

* * * * *

25. Section 740.4 is revised to read as follows:

§740.4 Shipments to Country Group B countries (GBS).

License Exception GBS authorizes exports and reexports to Country Group B (see Supplement No. 1 to part 740) of those commodities controlled to the ultimate destination for national security reasons and identified by "GBS - Yes" on the CCL. License Exception GBS may be used to export or reexport to eligible countries any commodity (but not software) eligible for License Exception CIV.

26. Section 740.9 is amended:

- a. By revising the last two sentences of paragraph (a)(2)(i);
- b. By revising paragraph (a)(2)(iv);
- c. By revising paragraph (a)(2)(viii)(A)(Introductory Text);
- d. By revising paragraph (b)(1)(ii); and
- e. By revising paragraph (b)(2)(ii)(B), as follows:

§740.9 Temporary imports, exports, and reexports (TMP).

* * * * *

(a) * * *

(2) * * *

(i) Tools of trade. * * * No tools of trade may be taken to Country Group E:2 and Sudan, only the equipment necessary to commission or service goods may be taken as tools of trade to Country Group D:1. (See Supplement No. 1 to part 740.)

* * * * *

(iv) Inspection and calibration. Commodities to be inspected, tested, calibrated or repaired abroad may be exported or reexported to all destinations under this section, except Country Group E:2, Sudan or Syria.

* * * * *

(viii) News media. (A) Commodities necessary for news-gathering purposes (and software necessary to use such commodities) may accompany "accredited" news media personnel (i.e., persons with credentials from a news gathering or reporting firm) to Country Groups D:1 or E:2, or Sudan (see Supplement No. 1 to part 740) if the commodities:

* * * * *

(b) * * *

(1) * * *

(ii) Items may not be exported to Country Group E:2 or Sudan under this section.

* * * * *

(2) * * *

(ii) * * *

(B) Exports to Country Group E:2 or Sudan (see Supplement No. 1 to part 740); or

* * * * *

27. Section 740.11 is amended by revising paragraphs (b)(2)(iii) and (b)(2)(iv) to read as follows:

§740.11 Governments and international organizations (GOV).

* * * * *

(b) * * *

(2) * * *

(iii) Items for official use within national territory by agencies of cooperating governments. This provision is available for all items consigned to and for the official use of any agency of a cooperating government within the territory of any cooperating government, except:

(A) Commercial communications satellites controlled under 9A004 and hot section technology for the development, production or overhaul of commercial aircraft engines controlled under 9E003.a.1 through a.12, and .f, and related controls;

(B) Computers with a CTP greater than 10,000 MTOPS when destined for Argentina, Hong Kong, South Korea, Singapore or Taiwan;

(C) Items identified on the Commerce Control List as controlled for missile technology (MT), chemical and biological warfare (CB), or nuclear nonproliferation (NP) reasons;

(D) Regional stability items controlled under Export Control Classification Numbers (ECCNs) 6A002, 6A003, 6D102, 6E001, 6E002, 7D001, 7E001, 7E002, and 7E101 as described in §742.6(a)(1) of the EAR; or

(E) Encryption items controlled for EI reasons as described in the Commerce Control List.

(iv) Diplomatic and consular missions of a cooperating government. This provision is available for all items consigned to and for the official use of a diplomatic or consular mission of a cooperating government located in any country in Country Group B (see Supplement No. 1 to part 740), except:

(A) Commercial communications satellites controlled under 9A004 and hot section technology for the development, production or overhaul of commercial aircraft engines controlled under 9E003.a.1 through a.12, and .f, and related controls;

(B) Computers with a CTP greater than 10,000 MTOPS when destined for Argentina, Hong Kong, South Korea, Singapore or Taiwan;

(C) Items identified on the Commerce Control List as controlled for missile technology (MT), chemical and biological warfare (CB), or nuclear nonproliferation (NP) reasons;

(D) Regional stability items controlled under Export Control Classification Numbers (ECCNs) 6A002, 6A003, 6D102, 6E001, 6E002, 7D001, 7E001, 7E002, and 7E101 as described in §742.6(a)(1) of the EAR; or

(E) Encryption items controlled for EI reasons as described in the Commerce Control List.

* * * * *

28. Section 740.12(b)(1) is amended by revising the phrase "exports by groups" to read "exports or reexports by groups".

29. Section 740.13 is amended by revising paragraph (d)(3)(i) to read as follows:

§740.13 Technology and software - unrestricted (TSU).

* * * * *

(d) * * *

(3) * * *

(i) Destinations. "Mass market" software is available to all destinations except Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria.

* * * * *

30. Section 740.14 is amended:

- a. By revising paragraph (a);
- b. By revising the introductory text to paragraph (b);

and

c. By revising the last two sentences of paragraph (d) to read as follows:

§740.14 Baggage (BAG).

(a) Scope. This License Exception authorizes individuals leaving the United States and crew members of exporting or reexporting carriers to take to any destination, as personal

baggage, the classes of commodities and software described in this section.

(b) Eligibility. Individuals leaving the United States may export or reexport any of the following commodities or software to any destination or series of destinations. Crew members may export or reexport only commodities and software described in paragraphs (b)(1) and (b)(2) of this section to any destination.

* * * * *

(d) Special provision: unaccompanied baggage. * * *

However, commodities controlled for CB, MT, NS, or NP may not be exported under this License Exception to Country Groups D:1, D:2, D:3, D:4, E:2 , or Sudan. (See Supplement No. 1 to part 740.)

* * * * *

31. Section 740.16 is amended:

- a. By revising paragraph (a)(2);
- b. By revising paragraph (a)(3)(ii); and
- c. By adding a new paragraph (j), as follows:

§740.16 Additional permissive reexports (APR).

* * * * *

(a) * * *

(2) The commodities being reexported are not controlled for NP, CB, MT, SI, or CC reasons; and

(3) * * *

(ii) A country in Country Group D:1 (National Security) (see Supplement No. 1 to part 740), other than Cambodia or Laos, and the commodity being reexported is controlled for national security reasons.

* * * * *

(j) Reexports of items controlled by NP Column 1 (see Supplement No. 1 to part 774 of the EAR) to, among, and from countries described in Country Group A:4 (see Supplement No. 1 to part 740), except:

(1) Reexports from countries that are not identified in Country Group A:1 of items that are controlled for NS reasons to destinations in Country Group D:1; and

(2) Reexports to destinations in Country Group E:2 and Country Group D:2.

32. Supplement No. 1 to part 740 is amended:

a. In Country Group B to add "Rwanda" and "Serbia and Montenegro" in alphabetical order;

b. In Country Group D by removing the reference under the "Country" heading for "South Africa" and by removing the corresponding "x" under the heading "[D:3] Chemical & Biological"; and

c. In Country Group E by removing the reference under the "Country" heading for "Serbia and Montenegro" and by removing the corresponding "x" under the heading "UN Embargo".

PART 742 - [AMENDED]

33. Section 742.1 is amended:

a. By revising the phrase "maintains controls under EAA section 6(j) of the EAA" to read "maintains controls under section 6(j) of the EAA" in the third sentence of paragraph (d); and

b. By revising the citation reference "§742.3(b)(3)" to read "§742.2(b)(3)" in paragraph (f).

34. Section 742.2 is amended:

a. By revising paragraph (a)(1)(ii);

b. By revising paragraph (a)(2)(iii)(introductory text);

c. By revising paragraph (a)(3)(ii); and

d. By revising the phrase "individual license applications:" to read "license applications:" in paragraph (b)(2), as follows:

§742.2 Proliferation of chemical and biological weapons.

(a) * * *

(1) * * *

(ii) Technology (ECCNs 1E001 and 1E391) for the production and/or disposal of microbiological commodities described in paragraph (a)(1)(i) of this section.

(2) * * *

(iii) Technology (ECCNs 1E001 and 1E391) for the production and/or disposal of chemical precursors described in ECCN 1C350, and technology (ECCNs 1E001 and 1E350) involving the following for facilities designed or intended to produce chemicals described in 1C350:

* * * * *

(3) * * *

(ii) Technology (ECCNs 2E001, 2E002 and 2E301) for development, production, or use of the commodities covered in ECCNs 2B350, 2B351 and 2B352.

* * * * *

35. Section 742.7 is amended:

- a. By revising paragraph (a)(1);
- b. By revising paragraph (a)(2); and
- c. By revising paragraph (a)(3) to read as follows:

§742.7 Crime Control.

(a) * * *

(1) Crime control and detection instruments and equipment and related technology and software identified in the appropriate ECCNs on the CCL under CC Column 1 in the Country Chart column of the "License Requirements" section. A license is required to countries listed in CC Column 1 (Supplement No. 1 to part 738 of the EAR). Items affected by this requirement are identified on the CCL under the following ECCNs: 0A982, 0A983, 0A984, 0A985, 0E984, 1A984, 3A980, 3A981, 3D980, 3E980, 4A003 (for fingerprint computers only), 4A980, 4D001 (for fingerprint computers only), 4D980, 4E001 (for fingerprint computers only), 4E980, 6A002 (for

police-model infrared viewers only), 6E001 (for police-model infrared viewers only), and 9A980.

(2) Shotguns with a barrel length greater than or equal to 24 inches, identified in ECCN 0A984 on the CCL under CC Column 2 in the Country Chart column of the "License Requirements" section regardless of end-user to countries listed in CC Column 2 (Supplement No. 1 part 738 of the EAR).

(3) Shotguns with a barrel length greater than or equal to 24 inches, identified in ECCN 0A984 on the CCL under CC Column 3 in the Country Chart column of the "License Requirements" section only if for sale or resale to police or law enforcement entities in countries listed in CC Column 3 (Supplement No. 1 part 738 of the EAR).

* * * * *

36. Section 742.9 is amended by revising paragraph (b)(1)(iv) to read as follows:

§742.9 Anti-terrorism: Syria.

(b) * * *

(1) * * *

(iv) All aircraft (powered and unpowered), helicopters, engines, and related spare parts and components. These are items controlled to any destination for national security reasons and items controlled to Syria for anti-terrorism purposes. Such items contain an NS Column 1, NS Column 2, or AT Column 1 in the Country Chart column of the "License Requirements" section of an ECCN on the CCL. Note that, consistent with the general rule that applies to computing U.S. parts and components content incorporated in foreign made products, all aircraft-related items that require a license to Syria will be included as controlled U.S. content, except for ECCNs 6A990, 7A994, and 9A994, for purposes of such licensing requirements.

* * * * *

37. Supplement No. 1 to part 742 is amended:

- a. By revising paragraph (9)(ii); and
- b. By revising paragraph (9)(iii), to read as follows:

SUPPLEMENT NO. 1 TO PART 742 - NONPROLIFERATION OF CHEMICAL AND BIOLOGICAL WEAPONS

* * * * *

(9) * * *

(ii) Equipment and materials (for producing biological agents) described in ECCNs 1C351, 1C352, 1C353, 1C354, and 2B352; and

(iii) Technology (for the development, production, and use of equipment described in ECCNs 1C351, 1C352, 1C353, 1C354, 2B350, 2B351, and 2B352) described in ECCNs 2E001, 2E002, and 2E301.

* * * * *

PART 744 - [AMENDED]

38. Section 744.2 is amended by revising the citation reference "§740.12(a) and (b)" to read "§740.13(a) and (b)" (2 revisions), in paragraph (c).

39. Section 744.3 is amended by removing the phrase "to any destination, including Canada," in paragraph (a).

40. Section 744.4 is amended by removing the phrase "to any destination, including Canada," in paragraph (a).

41. Section 744.5 is amended by removing the phrase "to any destination, including Canada," in paragraph (a).

42. Section 744.6 is amended:

a. By revising paragraph (a)(1)(i)(introductory text);

and

b. By revising paragraph (e), as follows:

§744.6 Restrictions on certain activities of U.S. persons.

(a) * * *

(1) * * *

(i) No U.S. person as defined in paragraph (c) of this section may, without a license from BXA, export, reexport, or transfer to or in any country any item where that person knows that such items:

* * * * *

(e) License review standards. Applications to engage in activities otherwise prohibited by this section will be denied if the activities would make a material contribution to the design, development, production, stockpiling, or use of nuclear explosive devices, chemical or biological weapons, or of missiles.

43. Supplement No. 1 to part 744 is removed and reserved.

44. Supplement No. 3 to part 744 is amended by adding the country "Canada" in alphabetical order.

PART 746 - [AMENDED]

45. Section 746.1 is amended:

- a. By revising the introductory paragraph;
- b. By revising paragraph (b); and
- c. By revising the first sentence of paragraph (c), as

follows:

§746.1 Introduction.

In this part, references to the EAR are references to 15 CFR chapter VII, subchapter C. This part implements broad based controls for items and activities subject to the EAR imposed to implement U.S. government policies. Two categories of controls are included in this part.

* * * * *

(b) Rwanda. The second category of controls that apply to Rwanda are supplemental to the controls described in the Country Chart in part 738 of the EAR. Such controls are listed under each affected ECCN on the CCL in part 774 of the EAR.

(c) This part also contains descriptions of controls maintained by the Office of Foreign Assets Control in the Treasury Department and by the Office of Defense Trade Controls in the Department of State. * * *

* * * * *

46. Section 746.2 is amended, as follows:

a. By revising paragraph (a)(1); and

b. By revising the phrase "Supplement No. 3 to part 734" to read "Supplement No. 2 to part 734" in paragraph (b)(3)(ii).

§746.2 Cuba.

(a) * * *

(1) License Exceptions. You may export or reexport without a license if your transaction meets all the applicable terms and conditions of any of the following License Exceptions. To determine the scope and eligibility requirements, you will need to turn to the sections or specific paragraphs of part 740 of the EAR (License Exceptions). Read each License Exception carefully, as the provisions available for embargoed countries are generally narrow.

(i) Temporary exports and reexports (TMP) by the news media (see §740.9(a)(2)(viii) of the EAR).

(ii) Operation technology and software (TSU) for legally exported commodities (see §740.13(a) of the EAR).

(iii) Sales technology (TSU) (see §740.13(b) of the EAR).

(iv) Software updates (TSU) for legally exported software (see §740.13(c) of the EAR).

(v) Parts (RPL) for one-for-one replacement in certain legally exported commodities (see §740.10(a) of the EAR).

(vi) Baggage (BAG) (see §740.14 of the EAR).

(vii) Governments and international organizations (GOV) (see §740.11 of the EAR).

(viii) Gift parcels and humanitarian donations (GFT) (see §740.12 of the EAR).

(ix) Items in transit (TMP) from Canada through the U.S. (see §740.9(b)(1)(iv) of the EAR).

(x) Aircraft and vessels (AVS) for certain aircraft on temporary sojourn (see §740.15(a) of the EAR).

(xi) Permissive reexports of certain spare parts in foreign-made equipment (see §740.16(h) of the EAR).

* * * * *

47. Section 746.3 is amended by revising paragraph (a)(1) to read as follows:

§746.3 Iraq.

(a) * * *

(1) License Exceptions. You may export or reexport without a license if your transaction meets all the applicable terms and conditions of one of the following License Exceptions. Read each License Exception carefully, as the provisions available for embargoed countries are generally narrow.

(i) Baggage (BAG) (see §740.14 of the EAR).

(ii) Governments and international organizations (GOV) (see §740.11 of the EAR).

* * * * *

48. Section 746.4 is amended:

- a. By revising paragraph (b);
- b. By revising paragraph (c)(3)(introductory text);
- c. By redesignating paragraph (e) as paragraph (d);

and

d. By redesignating paragraph (f) as paragraph (e), as follows:

§746.4 Libya.

* * * * *

(b) License requirements.

(1) Exports. OFAC and BXA both require a license for virtually all exports (including transshipments) to Libya. Except as noted in paragraph (b) of this section or specified in OFAC regulation, you may not use any BXA License Exception or other BXA authorization to export or transship to Libya. You will need a license from OFAC for all direct exports and transshipments to Libya except those eligible for the following BXA License Exceptions:

- (i) Baggage (BAG) (see §740.14 of the EAR).

(ii) Governments and international organizations (GOV) (see §740.11 of the EAR).

(iii) Gift parcels (GFT) (see §740.12(a) of the EAR).

(2) Reexports. You will need a license from BXA to reexport any U.S.-origin item from a third country to Libya, any foreign-manufactured item containing U.S.-origin parts, components or materials, as defined in §734.2(b)(2) of the EAR, or any national security-controlled foreign-produced direct product of U.S. technology or software, as defined in §734.2(b)(3) of the EAR, exported from the U.S. after March 12, 1982. You will need a license from BXA to reexport all items subject to the EAR (see part 734 of the EAR) to Libya, except:

(i) Food, medicines, medical supplies, and agricultural commodities;

(ii) Reexports eligible for the following License Exceptions (read each License Exception carefully, as the provisions available for embargoed countries are generally narrow):

(A) Temporary exports and reexports (TMP): reexports by the news media (see §740.9(a)(2)(viii) of the EAR).

(B) Operation technology and software (TSU) for legally exported commodities (see §740.13(a) of the EAR).

(C) Sales technology (TSU) (see §740.13(b) of the EAR).

(D) Software updates (TSU) for legally exported software (see §740.13(c) of the EAR).

(E) Parts (RPL) for one-for-one replacement in certain legally exported commodities (§740.10(a) of the EAR).

(F) Baggage (BAG) (§740.14 of the EAR).

(G) Aircraft and vessels (AVS) for vessels only (see §740.15(c)(1) of the EAR).

(H) Governments and international organizations (GOV) (see §740.11 of the EAR).

(I) Gift parcels and humanitarian donations (GFT) (see §740.12 of the EAR).

(J) Permissive reexports of certain spare parts in foreign-made equipment (see §740.16(h) of the EAR).

(c) * * *

(3) Notwithstanding the presumptions of denial in paragraphs (c)(2)(i) through (iii) of this section, licenses will generally be issued for items not included in paragraphs (c)(2)(iv) through (vii) of this section when the transaction involves:

* * * * *

49. Section 746.5 is amended by revising paragraphs (a)(1) and (b)(1) to read as follows:

§746.5 North Korea.

(a) * * *

(1) License Exceptions. You may export without a license if your transaction meets all the applicable terms and conditions of any of the License Exceptions specified in this paragraph. To determine scope and eligibility requirements, you will need to turn to the sections or specific paragraphs of part 740 of the EAR (License Exceptions). Read each License Exception carefully, as the provisions available for embargoed countries are generally narrow.

(i) Temporary exports and reexports (TMP) by the news media (see §740.9(a)(2)(viii) of the EAR).

(ii) Operation technology and software (TSU) for legally exported commodities (see §740.13(a) of the EAR).

(iii) Sales technology (TSU) (see §740.13(b) of the EAR).

(iv) Software updates (TSU) for legally exported software (see §740.13(c) of the EAR).

(v) Parts (RPL) for one-for-one replacement in certain legally exported commodities (§740.10(a) of the EAR).

(vi) Baggage (BAG) (§740.14 of the EAR).

(vii) Aircraft and vessels (AVS) for fishing vessels under governing international fishery agreements and foreign-registered aircraft on temporary sojourn in the U.S.¹ (see §740.15(a) and (b)(1) of the EAR).

¹ Export of U.S. aircraft on temporary sojourn or vessels is prohibited, 44 CFR Ch. IV, Part 403 "Shipping restrictions: North Korea (T-2)."

(viii) Governments and international organizations (GOV) (see §740.11 of the EAR).

(ix) Gift parcels and humanitarian donations (GFT) (see §740.12 of the EAR).

(x) Permissive reexports of certain spare parts in foreign-made equipment (see §740.16(h) of the EAR).

* * * * *

(b) Licensing policy. * * *

(1) BXA will review on a case-by-case basis applications for export of donated human-needs items listed in Supplement No. 2 to part 740 of the EAR that do not qualify for the humanitarian donation provisions of License Exception GFT (see §740.12(b) of the EAR). Such applications include single transactions involving exports to meet emergency needs.

* * * * *

PART 748 - [AMENDED

50. Section 748.3 is amended:

a. By revising the phrase "limited to 5 items" to read "limited to six items" in paragraph (b)(1); and

b. By revising paragraph (b)(2), as follows:

§748.3 Classification and Advisory Opinions.

* * * * *

(b) * * *

(2) When submitting a Classification Request, you must complete Blocks 1 through 5, 14, 22(a), (b), (c), (d), and (i), 24, and 25 on Form BXA-748P. You must provide a recommended classification in Block 22(a) and explain the basis for your recommendation based on the technical parameters specified in the appropriate ECCN in Block 24. If you are unable to determine a recommended classification for your item, include an explanation in Block 24, identifying the ambiguities or deficiencies that precluded you from making a recommended classification.

* * * * *

51. Section 748.9 is amended:

a. By adding a new paragraph (a)(7);

b. By revising paragraph (b)(1)(ii);

c. By revising paragraph (b)(2)(ii); and

d. By revising paragraph (c)(2).

§748.9 Support documents for license applications.

(a) * * *

(7) The license application is submitted to export or reexport software or technology, except for software or technology subject to national security controls destined for Bulgaria, Czech Republic, Hungary, Poland, Romania, or Slovakia.

(b) * * *

(1) * * *

(ii) If no, your transaction may require a Statement by Ultimate Consignee and Purchaser. Read the remainder of this section beginning with paragraph (c) of this section, then proceed to §748.11 of the EAR.

(2) * * *

(ii) If no, your transaction may require a Statement by Ultimate Consignee and Purchaser. Read the remainder of this section, then proceed to §748.11 of the EAR.

(c) * * *

(2) License applications supported by Ultimate Consignee and Purchaser statements. These types of license applications may be submitted upon receipt of a facsimile or other legible copy of the original statement provided that the applicant receives the manually-signed original within 60 days from the date the original is signed by the ultimate consignee.

* * * * *

52. Section 748.10 is amended:

a. By revising paragraph (b)(1); and

b: By revising paragraph (b)(3)(introductory text), as

follows:

§748.10 Import and End-User Certificates.

* * * * *

(b) * * *

(1) Any commodities on your license application are controlled for national security (NS) reasons, or you have software or technology that is controlled for NS reasons and is destined for Bulgaria, Czech Republic, Hungary, Poland, Romania, or Slovakia.

(2) * * *

(3) Your license application involves the export of commodities and software classified in a single entry on the CCL, the total value of which exceeds \$5,000.

* * * * *

53. Section 748.11 is amended by revising paragraph (e)(1)(ii) to read as follows:

§748.11 Statement by Ultimate Consignee and Purchaser.

* * * * *

(e) * * *

(1) * * *

(ii) Multiple. This statement is to be considered a part of every license application submitted by [name and address of applicant] until two years from the date this statement is signed.

* * * * *

54. Section 748.12 is amended by revising paragraph (b) to read as follows:

§748.12 Special provisions for support documents.

* * * * *

(b) Reexports. If a support document would be required for an export from the United States, the same document would be required for reexport to Country Group D:1 and E:2 (see Supplement No. 1 to part 740 of the EAR).

* * * * *

55. Section 748.13 is amended by revising the first sentence of paragraph (a)(1) to read as follows:

§748.13 Delivery Verification (DV).

(a) * * *

(1) BXA may request the licensee to obtain verifications of delivery on a selective basis. * * *

* * * * *

56. Supplement No. 1 to part 748 is amended:

- a. By revising the introductory text;
- b. By revising Block 5;

- c. By revising the heading of Block 6;
- d. By revising the phrase "box" to read "Block" in Block 9;
- e. By revising Block 10;
- f. By revising Block 11;
- g. By revising Block 14;
- h. By revising Blocks 16 through 21;
- i. By revising the introductory text and paragraphs (b) through (f) of Block 22;
- j. By revising Block 24; and
- k. By revising Block 25, as follows:

SUPPLEMENT NO. 1 TO PART 748 - BXA-748P, BXA-748P-A; ITEM APPENDIX, AND BXA-748P-B; END-USER APPENDIX; MULTIPURPOSE APPLICATION INSTRUCTIONS

All information must be legibly typed within the lines for each Block or Box, except where a signature is required. Enter only one typed line of text per Block or line. Where there is a choice of entering telephone numbers or facsimile numbers, and you wish to provide a facsimile number instead of a telephone number, identify the facsimile number with the letter "F" immediately after the number (e.g., 022-358-0-123456F). If you are completing this form to request classification of your item,

you must complete Blocks 1 through 5, 14, 22(a), (b), (c), (d), and (i), 24, and 25 only.

* * * * *

Block 5: Type of Application. Export. If the items are located within the United States, and you wish to export those items, mark the Box labeled "Export" with an (X). Reexport. If the items are located outside the United States, mark the Box labeled "Reexport" with an (X). Classification. If you are requesting BXA to classify your item against the Commerce Control List (CCL), mark the Box labeled "Classification Request" with an (X). Special Comprehensive License. If you are submitting a Special Comprehensive License application in accordance with the procedures described in part 752 of the EAR, mark the Box labeled "Special Comprehensive License" with an (X).

Block 6: Documents submitted with Application. * * *

* * * * *

Block 10: Resubmission Application Control Number. If your original application was returned without action (RWA), provide the Application Control Number. This does not apply to applications returned without being registered.

Block 11: Replacement License Number. If you have received a license for identical items to the same ultimate consignee, but would like to make a modification that is not excepted in §750.7(c) of the EAR, to the license as originally approved, enter the original license number and complete Blocks 12 through 25, where applicable. Include a statement in Block 24 regarding what changes you wish to make to the original license.

* * * * *

Block 14: Applicant. Enter the applicant's name, street address, city, state/country, and postal code. Provide a complete street address. P.O. Boxes are not acceptable. Refer to §748.5(a) of this part for a definition of "applicant". If you have marked "Export" in Block 5, you must include your company's Employer Identification Number unless you are filing as an individual or as an agent on behalf of the exporter. The Employee Identification Number is assigned by the Internal Revenue Service for tax identification purposes. Accordingly, you should consult your company's financial officer or accounting division to obtain this number.

Block 15: * * *

Block 16: Purchaser. Enter the purchaser's complete name, street address, city, country, postal code, and telephone or facsimile number. Refer to §748.5(c) of this part for a definition of "purchaser". If the purchaser is also the ultimate consignee, enter the complete name and address. If your proposed transaction does not involve a separate purchaser, leave Block 16 blank.

Block 17: Intermediate consignee. Enter the intermediate consignee's complete name, street address, city, country, postal code, and telephone or facsimile number. Provide a complete street address, P.O. Boxes are not acceptable. Refer to §748.5(d) of this part for a definition of "intermediate consignee". If this party is identical to that listed in Block 16, enter the complete name and address. If your proposed transaction does not involve use of an intermediate consignee, enter "None". If your proposed transaction involves more than one intermediate consignee, provide the same information in Block 24 for each additional intermediate consignee.

Block 18: Ultimate Consignee. This Block must be completed if you are submitting a license application. Enter the ultimate consignee's complete name, street address, city, country, postal code, and telephone or facsimile number. Provide a complete street address, P.O. Boxes are not acceptable. The ultimate

consignee is the party who will actually receive the item for the end-use designated in Block 21. Refer to §748.5(e) of this part for a definition of "ultimate consignee". A bank, freight forwarder, forwarding agent, or other intermediary may not be identified as the ultimate consignee. Government purchasing organizations are the sole exception to this requirement. This type of entity may be identified as the government entity that is the actual ultimate consignee in those instances when the items are to be transferred to the government entity that is the actual end-user, provided the actual end-user and end-use is clearly identified in Block 21 or in the additional documentation attached to the application.

If your application is for the reexport of items previously exported, enter the new ultimate consignee's complete name, street address, city, country, postal code, and telephone or facsimile number. Provide a complete street address, P.O. Boxes are not acceptable. If your application involves a temporary export or reexport, the applicant should be shown as the ultimate consignee in care of a person or entity who will have control over the items abroad.

Block 19: End-User. Complete this Block only if the ultimate consignee identified in Block 18 is not the actual end-user. If there will be more than one end-user, use Form BXA-748P-B to

identify each additional end-user. Enter each end-user's complete name, street address, city, country, postal code, and telephone or facsimile number. Provide a complete street address, P.O. Boxes are not acceptable.

Block 20: Original Ultimate Consignee. If your application involves the reexport of items previously exported, enter the original ultimate consignee's complete name, street address, city, country, postal code, and telephone or facsimile number. Provide a complete street address, P.O. Boxes are not acceptable. The original ultimate consignee is the entity identified in the original application for export as the ultimate consignee or the party currently in possession of the items.

Block 21. Specific End-Use: This Block must be completed if you are submitting a license application. Provide a complete and detailed description of the end-use intended by the ultimate consignee and/or end-user(s). If you are requesting approval of a reexport, provide a complete and detailed description of the end-use intended by the new ultimate consignee or end-user(s) and indicate any other countries for which resale or reexport is requested. If additional space is necessary, use Block 21 on Form BXA-748P-A or B. Be specific, vague descriptions such as "research", "manufacturing", or "scientific uses" are not acceptable.

Block 22: For a license application, you must complete each of the sub-blocks contained in this Block. If you are submitting a classification request, you need not complete Blocks (e), (f), (g), and (h). If you wish to export, reexport, or have BXA classify more than one item, use Form BXA-748P-A for additional items.

(a) * * *

(b) CTP. You must complete this Block only if your application involves a digital computer or equipment containing a digital computer as described in Supplement No. 2 to this part. Instructions on calculating the CTP are contained in a Technical Note at the end of Category 4 in the CCL.

(c) Model Number. Enter the correct model number for the item.

(d) CCATS Number. If you have received a classification for this item from BXA, provide the CCATS number shown on the classification issued by BXA.

(e) Quantity. Identify the quantity to be exported or reexported, in terms of the "Unit" identified for the ECCN

entered in Block 22(a). If the "Unit" for an item is "\$ value", enter the quantity in units commonly used in the trade.

(f) Units. The "Unit" paragraph within each ECCN will list a specific "Unit" for those items controlled by the entry. The "Unit" must be entered on all license applications submitted to BXA. If an item is licensed in terms of "\$ value", the unit of quantity commonly used in the trade must also be shown on the license application. This Block may be left blank on license applications only if the "Unit" for the ECCN entered in Block 22(a) is shown as "N/A" on the CCL.

* * * * *

Block 24: Additional Information. Enter additional data pertinent to the application as required in the EAR. Include special certifications, names of parties of interest not disclosed elsewhere, explanation of documents attached, etc. Do not include information concerning Block 22 in this space.

If your application represents a previously denied application, you must provide the Application Control Number from the original application.

If you are requesting BXA to classify your product, use this space to explain why you believe the ECCN entered in Block 22(a) is appropriate. This explanation must contain an analysis of the item in terms of the technical control parameters specified in the appropriate ECCN. If you have not identified a recommended classification in Block 22(a), you must state the reason you cannot determine the appropriate classification, identifying anything in the regulations that you believe precluded you from determining the correct classification.

If additional space is necessary, use Block 24 on Form BXA-748P-A or B.

Block 25: You, as the applicant or duly authorized agent of the applicant, must manually sign in this Block. Rubber-stamped or electronic signatures are not acceptable. If you are an agent of the applicant, in addition to providing your name and title in this Block, you must enter your company's name in Block 24. Type both your name and title in the space provided.

57. Supplement No. 2 to part 748 is amended:

a. By revising the introductory text of paragraph (d) and the note following it;

b. By revising the introductory text of paragraph (e):

- c. By revising the introductory text of paragraph (g)(1);
 - d. By revising paragraph (g)(2)(i);
 - e. By revising paragraph (o)(3)(i); and
 - f. By revising the introductory text of paragraph (p),
- as follows:

SUPPLEMENT NO. 2 TO PART 748 - UNIQUE LICENSE APPLICATION
REQUIREMENTS

* * * * *

(d) Gift parcels; consolidated in a single shipment. If you are submitting a license application to export multiple gift parcels for delivery to individuals residing in a foreign country, you must include the following information in your license application.

NOTE: Each gift parcel must meet the terms and conditions described for gift parcels in License Exception GFT (see §740.12(a) of the EAR).

* * * * *

(e) Intransit through the United States. If you are submitting a license application for items moving intransit through the United States that do not qualify for the intransit provisions of License Exception TMP (see §740.9(b)(1) of the EAR), you must provide the following information with your license application:

* * * * *

(g) * * *

(1) Statement requirement. If a license is required to export or reexport items described in §742.3 or §744.4 of the EAR, or any other item (except those controlled for short supply reasons) where the item is intended for a nuclear end-use, prior to submitting a license application, you must obtain a signed written statement from the end-user certifying the following:

* * * * *

(2) * * *

(i) In Block 7, place an (X) in the box titled "Nuclear Certification";

* * * * *

(o) * * *

(3) * * *

(i) Technology controlled for national security reasons. If you are submitting a license application to export technology controlled for national security reasons to a country not listed in Country Group D:1 or E:2 (see Supplement No. 1 to part 740 of the EAR), upon request, you must provide BXA a copy of the written letter from the ultimate consignee assuring that, unless prior authorization is obtained from BXA, the consignee will not knowingly reexport the technology to any destination, or export the direct product of the technology, directly or indirectly, to a country listed in Country Group D:1 or E:2 (see Supplement No. 2 to part 740 of the EAR). If you are unable to obtain this letter of assurance from your consignee, you must state in your license application why the assurances could not be obtained.

* * * * *

(p) Temporary exports or reexports. If you are submitting a license application for the temporary export or reexport of an item (not eligible for the temporary exports and reexports provisions of License Exception TMP (see §740.9(a) of the EAR)) you must include the following certification in Block 24:

* * * * *

58. In Supplement No. 4 to part 748, the IC/DV Authorities column for "China, PRC People's Republic of" is amended by revising the phrase "Telephone: 553031" to read "Telephone: 651-97-355".

59. In Supplement No. 4 to part 748, the IC/DV Authorities column for "Italy" is amended by revising the phrase "Div. III, Rome" to read "Div. III, Rome or:" and by revising the parenthetical phrase "(of the town import where takes place)" to read "(the town where the import takes place)".

60. Supplement No. 5 to part 748 is amended by revising paragraph (a)(6)(vii) to read as follows:

SUPPLEMENT NO. 5 TO PART 748 - U.S. IMPORT CERTIFICATE AND
DELIVERY VERIFICATION PROCEDURE

(a) * * *

(6) * * *

(vii) Reexport or transshipment of items after delivery to U.S. Items imported into the U.S. under the provisions of a U.S. International Import Certificate may not be reexported to any destination under the intransit provisions of License Exception TMP (see §740.9(b)(1) of the EAR). However, all other provisions of the EAR applicable to items of domestic

origin shall apply to the reexport of items of foreign origin shipped to the U.S. under a U.S. International Import Certificate.

* * * * *

PART 750 - [AMENDED]

61. Section 750.1 is revised to read as follows:

§750.1 Scope. In this part, references to the EAR are references to 15 CFR chapter VII, subchapter C. This part describes the Bureau of Export Administration's (BXA) process for reviewing your application for a license and the applicable processing times for various types of applications. Information related to the issuance, denial, revocation, or suspension of a license or license application is provided along with the procedures on obtaining a duplicate or replacement license, the transfer of a license and shipping tolerances available on licenses. This part also contains instructions on obtaining the status of any pending application.

62. Section 750.4 is amended:

a. By revising the first sentence of paragraph (b)(1);

and

b. By revising the phrase "terrorist supporting" to read "terrorist-supporting" in paragraph (b)(6)(introductory text), as follows:

§750.4 Procedures for processing license applications.

* * * * *

(b) * * *

(1) Agreement by the applicant to the delay. BXA may request applicants to provide additional information in support of their license application, respond to questions arising during processing, or accept proposed conditions or riders on their license application. * * *

* * * * *

63. Section 750.5 is amended by revising paragraph (a) to read as follows:

§750.5 Status of pending applications and other requests.

(a) Information available. You may contact BXA for status of your pending Classification Request, Advisory Opinion, or license application. For Advisory Opinion requests, telephone (202) 482-4905 or send a fax to (202) 219-9179. For license applications and Classification Requests, telephone BXA's System for Tracking Export License Applications ("STELA") at (202) 482-2752. STELA is an automated voice response system, that upon request via any standard touch-tone telephone, will provide you with up to the minute status on any application pending at BXA. Press "0" on your keypad for online instructions or "9" for the letter "Z". Requests for status may be made only by the applicant or the applicant's agent.

* * * * *

64. Section 750.7 is amended:

a. By revising the phrase "approved by the BXA," to read "approved by BXA," in paragraph (a); and

b. By revising the parenthetical phrase "(See §748.5(g) of the EAR)" to read "(see §748.4(h) of the EAR)" in paragraphs (g)(introductory text) and in (g)(1).

65. Section 750.10(c) is amended by revising the phrase "pending notification by the BXA" to read "pending notification by BXA".

PART 752 - [AMENDED]

66. Section 752.1(a)(1) is amended by revising the phrase "described in part 734 of the EAR." to read "described in part 736 of the EAR."

67. Section 752.3 is amended by revising paragraphs (a)(2) and (a)(3) to read as follows:

§752.3 Eligible items.

(a) * * *

(2) Items controlled by ECCNs 1C351, 1C352, 1C353, 1C354, 1C991, 1E001, 1E350, 1E391, 2B352, 2E001, 2E002, and 2E301 on the CCL controlled for CB reasons;

(3) Items controlled by ECCNs 1C350, 1C995, 1D390, 2B350, and 2B351 on the CCL that can be used in the production of chemical weapons precursors and chemical warfare agents, to destinations listed in Country Group D:3 (see Supplement No. 1 to part 740 of the EAR);

* * * * *

68. Section 752.5 is amended:

a. By revising the introductory text of paragraph (c)(8)(i);

b. By revising the introductory text and the certification of paragraph (c)(8)(ii); and

c. By revising the heading and the introductory text of paragraph (c)(8)(iii) to read as follows:

§752.5 Steps you must follow to apply for an SCL.

(c) * * *

(8) * * *

(i) Temporary exports. Proposed consignees that plan to exhibit or demonstrate items in countries other than those in which they are located or are authorized under an SCL, an approved Form BXA-752, or a License Exception provision described in §740.8(a)(2)(iii) of the EAR may obtain permission to do so by including the following additional certification on company letterhead, and attaching it to Form BXA-752.

* * * * *

(ii) Chemicals and chemical equipment certification. If you are requesting authority to export chemicals or chemical equipment eligible for the SCL, you must obtain a signed written

statement on company letterhead from the proposed consignee(s) and end-user(s) (except those located in Country Group A:3) (see Supplement No. 1 to part 740 of the EAR) certifying the following:

"No chemicals or chemical equipment received under this Special Comprehensive License will be transferred, resold, or reexported to a destination that requires a license, unless the new end-user has been approved by the Bureau of Export Administration, and in no case will the items be retransferred, resold, or reexported to a party who is not the end-user."

(iii) Nuclear nonproliferation certification. If you are requesting the export or reexport under the EAR of items controlled for nuclear nonproliferation reasons described in §744.2(a) of the EAR, prior to submitting an SCL application, you must obtain a signed written statement on company letterhead from the proposed consignee(s) and end-user(s) certifying the following:

* * * * *

69. Section 752.6 is amended by revising paragraph (b)(1) to read as follows:

§752.6 Reexports.

* * * * *

(b) * * *

(1) Transferring, reselling, or reexporting under your SCL any chemicals or chemical equipment identified with the letters "CB" in the applicable "Reason for Control" paragraph on the CCL (see Supplement No. 1 to part 774 of the EAR); and

* * * * *

70. Section 752.9 is amended by revising the introductory text of paragraph (a)(2) to read as follows:

§752.9 Action on SCL applications.

(a) * * *

(2) Extension of validity period. You may request an extension of your valid SCL for an additional four years, but such requests must be received by BXA at least 30 days prior to the expiration of your SCL. If approved, Form BXA-748P and your letter requesting an extension will be validated and returned to you, extending the validity period for four years. No further extensions will be approved. A new application and support

documentation is required at the end of that eight-year period. To apply for an extension, complete Form BXA-748P by completing Blocks 1, 2, 3, and 4. In addition, mark "Special Comprehensive License" in Block 5, place an "x" in "Letter of Explanation" in Block 6, and mark "other" in Block 8. Include your SCL number in Block 9, and indicate in Block 24 that you are requesting an extension to your SCL. Submit the completed Form BXA-748P and a statement on your company letterhead indicating:

* * * * *

71. Section 752.10 is revised to read as follows:

§752.10 Changes to the SCL.

(a) General information. Certain changed circumstances regarding the SCL require prior approval from BXA before you make such changes, while others require only notification to BXA. Changes and notifications of license holder information must be initiated by submitting Form BXA-748P. Changes and notifications of consignee information must be initiated by submitting Form BXA-752.

(b) Changes requiring prior written approval from BXA. The following circumstances require prior written approval by BXA.

Such requests must be submitted by the SCL holder, and changes are not effective until BXA approves the request. Upon approval of a change described in this paragraph, BXA will return to the SCL holder a validated copy of the request, indicating any changes that may have been made to your request, or any special conditions that may have been imposed.

(1) Change of SCL holder company name. You must submit to BXA Form BXA-748P, Multipurpose Application, for any change in the name of the SCL holder company. Complete Blocks 1, 2, 3, and 4. Mark "Special Comprehensive License" in Block 5, and "other" in Block 8. In Block 9, include your SCL number. Briefly indicate the purpose of the change in Block 24 (i.e., a change in company name). Enter the new information in the relevant Blocks, and complete Block 25. The SCL holder must send a copy of the validated Form BXA-748P to each approved consignee, and advise them to attach the copy of the validated form to their validated Form BXA-752.

(2) Change in consignee name or address. You must submit to BXA Form BXA-752, Statement by Consignee in Support of Special Comprehensive License, when requesting a change in consignee name, or if the consignee moves out of the country. The consignee must complete Block 3, mark "change an existing consignee" and provide the new consignee information in Block 4.

In Block 9, explain change of address from "Address A" to "Address B". Also, complete Block 10 and the SCL holder signature Block information.

(3) Addition of new consignee. You must submit to BXA Form BXA-752 for requests to add consignees to an SCL. Complete Form BXA-752 in accordance with the instruction in Supplement No. 3 to this part, marking "Add a New Consignee" in Block 3. Use Block 9 to describe the proposed consignee's role in the activities authorized by the SCL. Form BXA-752 is not required if the proposed new consignee is a foreign government agency and the items will not be reexported. If Form BXA-752 is not required, the SCL holder may submit the request to add the foreign government agency to the SCL on company letterhead. You must include the proposed consignee's complete street address.

(4) Change in reexport territories. You must submit to BXA Form BXA-752 and Form BXA-752-A to add a country to a consignee's approved reexport territory. Upon approval of change in reexport territory, BXA will return to the SCL holder two validated copies of Form BXA-752 and Form BXA-752-A, Reexport Territories, along with any special conditions that may have been imposed.

(i) Form BXA-752. Complete Block 3 by marking "Change an Existing Consignee". In Block 4, enter the consignee name and

consignee number. In Block 5, enter the SCL number. In Block 9, enter "to add a country to the reexport territory". Complete Block 10 and the SCL holder signature block information.

(ii) Form BXA-752-A. Complete Blocks 2 and 3. Mark each country that you are adding to your reexport territory.

(5) Adding items to your SCL. The following procedures apply to requests to add items to your SCL. Upon approval, BXA will send you a validated Form BXA-748P and, if applicable, Form BXA-748P-A. The SCL holder must send a copy of each validated form to all applicable consignees and attach a copy to their Form BXA-752.

(i) Adding one item. You must submit to BXA Form BXA-748P to request the addition of a single item to your SCL. Complete Blocks 1, 2, 3, and 4. Mark and "x" in the "Special Comprehensive License" box in Block 5, and "other" in Block 8. Include your SCL number in Block 9. In Block 24, enter "add ECCN". Complete items (a) and (j) in Block 22 and in Block 25.

(ii) More than one item. You must submit to BXA Form BXA-748P and Form BXA-748P-A to request to add more than one item to your SCL. Complete Form BXA-748P according to the instructions in paragraph (b)(5)(i) of this section. In Block

24, insert the phrase "add ECCNs on attached Form BXA 748P-A. Complete Block 1 on Form BXA-748P-A by including the "Application Control Number" (found on Form BXA-748P). Complete Block 21 and 24, if needed, to describe any special circumstances (i.e., the new item will only be exported to specific consignees and will not be reexported).

(6) Changes to add end-users. You must submit to BXA Form BXA-752 and Form BXA-748P-B to add or change end-users to consignee authorizations. When you request multiple "types of requests" (i.e., additions or changes) on a single Form BXA-752; you must specify in Block 9, the type of request for each end-user. Example: end-user XXX is to be "added" and end-user AAA is to be "changed" from "end-user AAA" to "end-user ABA".

(i) Form BXA-752. On Form BXA-752, complete Block 3.B, "change an existing consignee". Include the consignee number in Block 4. Include the SCL number in Block 5. In Block 9 insert the phrase "To add an end-user" or the phrase "To change an end-user". Complete Block 10 and include the SCL holder signature block information.

(ii) Form BXA-748P-B. On Form BXA-748-B, complete Blocks 1 and 19. In Block 21, cite the end-user requirement or condition (i.e., end-user XXX is requested in compliance with

§752.5(c)(8)(ii) of this part, which requires prior authorization to reexport chemicals under the SCL). Also, list the items (by ECCN and by description) that each end-user will receive and for what purpose, if approved by BXA.

(c) Changes that do not require prior approval from BXA. The following changes regarding your SCL do not require prior approval from BXA, however, such changes must be submitted on the appropriate forms no later than 30 days after the change has occurred. BXA will validate the forms, and return one copy to you for your records.

(1) Change of SCL holder address, export contact information, or total value of license. You must submit to BXA Form BXA-748P, Multipurpose Application, for any change in the SCL holder's address, export contact information, or total value of the license. Complete Blocks 1, 2, 3, and 4. Mark "Special Comprehensive License" in Block 5, and "other" in Block 8. In Block 9, include your SCL number. Briefly indicate the purpose of the change in Block 24. Enter the new information in the relevant Blocks. Complete Block 25. The SCL holder must send a copy of the validated Form BXA-748P to each approved consignee, and advise each approved consignee to attach the copy of the validated form to their validated Form BXA-752.

(2) Deletion of consignees. You must submit to BXA Form BXA-752 if you remove a consignee from your SCL. Complete Block 3.C. Indicate your consignee number in Block 4 and your SCL case number in Block 5. Explain the reason for the action in Block 9. Complete Block 10 and the SCL holder signature information. You must notify all remaining consignees if any consignee is no longer eligible to receive items under the SCL.

(3) Changes in ownership or control of the SCL holder or consignee.

(i) SCL holder. You must notify BXA of changes in ownership or control by submitting to BXA Form BXA-748P. Complete Blocks 1, 2, 3 and 4, mark "Special Comprehensive License" in Block 5. Mark and "x" in "other" in Block 8 and indicate the SCL number in Block 9. Include the SCL holder information number in Block 14, and describe the change in Block 24, indicating the circumstances necessitating the change (i.e., mergers), and changes in persons who have official signing authority. Also complete Block 25.

(ii) Consignee. You must notify BXA of changes in ownership or control of the consignee company by submitting to BXA Form BXA-752. Complete Block 1. Mark and "x" in "change an existing consignee" in Block 3.B, and complete Blocks 4 and 5. In Block 9, describe the change, indicating the circumstances

necessitating the change (i.e., mergers), and changes in persons who have official signing authority. Complete Block 10 and the SCL holder signature block information.

(iii) Transfers and SCLs after control changes. Note that under §750.10(a) of the EAR you may not transfer a license--including a Special Comprehensive License--except with the prior written approval of BXA. In addition, BXA reserves the right to modify, revoke, or suspend an SCL in the event of a change in control of the previously approved SCL holder or consignee(s). In reviewing requests to transfer an SCL or consignee authority under an SCL and in reviewing changes in control of an SCL holder or approved consignee, BXA will consider the reliability of the new parties.

(4) Remove reexport territories. If you remove a country from a consignee's approved reexport territory, you must submit to BXA Form BXA-752 and Form BXA-752-A. You cannot add and delete countries on the same forms. Upon review of the change in reexport territory, BXA will return to the SCL holder two validated copies of Form BXA-752 and Form BXA-752-A.

(i) Form BXA-752. Complete Block 1. Complete Block 3 by marking "change an existing consignee". In Block 4, enter the consignee name and consignee number. In Block 5, enter the SCL

number. Complete Block 10 and the SCL holder signature block information.

(ii) Form BXA-752-A. Complete Blocks 1, 2, 3, and 5. Mark each country that you are removing from the reexport territory with an "x". Mark an "x" in "Other Specify" and insert "delete".

(5) Remove items from your SCL. The following procedures apply if you remove an item from your SCL. After review of the change by BXA, BXA will send you a validated Form BXA-748P and Form BXA-748P-A, if applicable. The SCL holder must send a copy of each validated form to all applicable consignees and attach a copy to their BXA-752.

(i) Removing one item. You must submit to BXA Form BXA-748P if you remove a single item from your SCL. Complete Blocks 1, 2, 3 and 5. Mark "Special Comprehensive License" in Block 5 and mark "other" in Block 8. Include your SCL number in Block 9. State "delete ECCN" in Block 24. Complete items (a) and (j) in Block 22 and Block 25.

(ii) Removing more than one item. You must submit to BXA Form BXA-748P and Form BXA 748P-A if you remove more than one item from your SCL. Complete Form BXA-748P according to the

instructions in paragraph (a)(5)(i) of this section, except in Block 24, state "delete ECCNs on attached BXA-748P-A". Complete Form BXA 748P-A by including the "application control number" (found on Form BXA-748P) in Block 1. Complete items (a) and (j) in Block 22 for each item you are removing from you SCL.

(6) Remove end-users from your SCL. You must submit to BXA Form BXA-752 if you remove end-users from consignee authorizations. (Use Form BXA-748P-B, if additional space is needed.) After review by BXA, BXA will return to the SCL holder two validated copies of Form BXA-752 and Form BXA-748P-B, which will include any special instructions that may be necessary. You must send one copy of Forms BXA-752 and BXA-748P to the relevant consignee.

(i) Form BXA-752. On Form BXA-752, complete Block 1 and 3.B, "change an existing consignee". Include the consignee number in Block 4. Include the SCL case number in Block 5. In Block 9, include the phrase "to remove an end-user(s)" followed by the name/address information. Complete Block 10 and the SCL holder signature Block information.

(ii) Form BXA-748P-B. If there was not enough space on Form BXA-752, Block 9, you may continue the information on Form BXA-748P-B, in Block 24. Complete the information in Block

1. Do not complete Block 19. Block 19 is only used to add end-users.

(d) Changes made by BXA. If BXA revises or adds an ECCN to the CCL, or a country's eligibility already covered by the SCL changes, BXA will publish the change in the Federal Register. The SCL holder is responsible for immediately complying with any changes to the scope of the SCL.

72. Section 752.11 is amended by revising paragraph (c)(13)(i) to read as follows:

§752.11 Internal Control Programs.

* * * * *

(c) * * *

(13) * * *

(i) The signs of potential diversion that you should take into consideration include, but are not limited to, the following:

(A) The customer or purchasing agent is reluctant to offer information about the end-use (or end-user) of a product.

(B) The product's capabilities do not fit the buyer's line of business; for example, a small bakery places an order for several sophisticated lasers.

(C) The product ordered is incompatible with the technical level of the country to which the product is being shipped. For example, semiconductor manufacturing equipment would be of little use in a country without an electronics industry.

(D) The customer has little or no business background. For example, financial information unavailable from normal commercial sources and corporate principals unknown by trade sources.

(E) The customer is willing to pay cash for a very expensive item when the terms of the sale call for financing.

(F) The customer is unfamiliar with the product's performance characteristics but still wants the product.

(G) Routine installation, training or maintenance services are declined by the customer.

(H) Delivery dates are vague, or deliveries are planned for out-of-the-way destinations.

(I) A freight forwarding firm is listed as the product's final destination.

(J) The shipping route is abnormal for the product and destination.

(K) Packaging is inconsistent with the stated method of shipment or destination.

(L) When questioned, the buyer is evasive or unclear about whether the purchased product is for domestic use, export, or reexport.

(M) Customer uses only a "P.O. Box" address or has facilities that appear inappropriate for the items ordered.

(N) Customer's order is for parts known to be inappropriate, or for which the customer appears to have no legitimate need (e.g., there is no indication of prior authorized shipment of system for which the parts are sought).

(O) Customer is known to have, or is suspected of having unauthorized dealings with parties and/or destinations in ineligible countries.

* * * * *

73. Section 752.15 is amended by revising the first sentence of paragraph (b) to read as follows:

§752.15 Export clearance.

* * * * *

(b) Destination control statement. The SCL holder and consignees must enter a destination control statement on all copies of the bill of lading or air way-bill, and the commercial invoice covering exports under the SCL, in accordance with the provisions of §758.6 of the EAR. * * *

74. Supplement No. 1 to part 752 is revised as follows:

SUPPLEMENT NO. 1 TO PART 752 - INSTRUCTIONS FOR COMPLETING FORM BXA-748P, MULTIPURPOSE APPLICATION FOR REQUESTS FOR SPECIAL COMPREHENSIVE LICENSES

All information must be legibly typed within the lines for each Block or box, except where a signature is required. Where there is a choice of entering a telephone or telefacsimile number, and you chose a telefacsimile number, identify the number with the letter "F" immediately following the number.

Complete Blocks 1, 2, 3 and 4 according to the instructions in Supplement No. 1 to part 748 of the EAR.

Block 5: Type of Application. Enter an "x" in the Special Comprehensive License box.

Block 6: Documents Submitted with Application. Enter an "x" in the appropriate boxes to indicate which forms are attached.

Block 7: Documents on File with Applicant. Leave blank.

Block 8: Special Comprehensive License. Complete by entering an "x" in the appropriate boxes to indicate which forms are attached.

Block 9: Special Purpose. This block should only be completed when requesting changes to an approved SCL.

Block 10: Resubmission Application Control Number. Leave blank.

Block 11: Replacement License Number. This Block should be completed by previous special license holders. If you have had a special license in the past, enter that license number (i.e., V #, SS #, DL #, or SF #). A new SCL number will be assigned upon approval of your SCL application.

Block 12: Items Previously Exported. Leave blank.

Block 13: Import/End-User Certificate. Leave blank.

Block 14: Applicant. Complete according to the instructions in Supplement No. 1 to part 748 of the EAR.

Block 15: Other Party Authorized to Receive License. Complete, if applicable, according to the instructions in Supplement No. 1 to part 748 of the EAR.

Block 16: Purchaser. Leave blank.

Block 17: Intermediate Consignee. Leave blank.

Block 18: Ultimate Consignee. Leave blank.

Block 19: End-User. Leave blank.

Block 20: Original Ultimate Consignee. Leave blank.

Block 21: Specific End-Use. Leave blank.

Block 22: For one item, complete sub-blocks (a) through (j).
For multiple items, complete Form BXA 748P-A.

Block 23: Total Application Dollar Value. Enter the projected total dollar value of all transactions you anticipate making throughout the entire validity period of the SCL.

Block 24: Additional Information. Enter additional data pertinent to the transaction.

Block 25: Signature. Complete according to the instructions in Supplement No. 1 to part 748 of the EAR.

75. Supplement No. 2 to part 752 is amended by revising Block 21 to read as follows:

SUPPLEMENT NO. 2 TO PART 752 - INSTRUCTIONS FOR COMPLETING FORM BXA-748P-A, "ITEM ANNEX"

* * * * *

Block 21: Continuation of Specific End-Use Information.
Complete as necessary to fully describe the transaction(s).

* * * * *

76. Supplement No. 3 to part 752 is revised to read as follows:

SUPPLEMENT NO. 3 TO PART 752 - INSTRUCTIONS ON COMPLETING FORM
BXA-752 "STATEMENT BY CONSIGNEE IN SUPPORT OF SPECIAL
COMPREHENSIVE LICENSE"

All information must be legibly typed within the lines for each Block or Box, except where a signature is required.

Block 1: Application Control No. Enter the "Control No." that is pre-printed on Form BXA-748P, Multipurpose Application. You may obtain this information from the applicant.

Block 2: Consignee ID Number. Leave blank.

Block 3: Type of Request. For new applications, leave blank.

Block 4: Consignee Information. Enter the complete address where the consignee is located. A Post Office (P.O.) Box alone

is NOT acceptable, but may be included in this Block 4 for mailing purposes, along with a complete address. If records required by §752.12 of this part and part 762 of the EAR are maintained/stored at a separate address, indicate the address in Block 9. In the absence of a complete address, Form BXA-752 will be returned without action.

Block 5: U.S. Exporter Information. Enter the complete address of the U.S. exporter. Leave the SCL Case No. box blank for new applications and enter the SCL Case No. for "change" actions.

Block 6: Description of Items. Provide a summary description of the items proposed for import and reexport under the SCL. Firms that will not receive the entire range of items under a particular ECCN identified on Form BXA-748P-A should describe only the items they will receive under the SCL. In some instances, consignee approval will be contingent on the nature of the item requested.

Block 7: Consignee's Business and Relationships.

(i) Item (a): Identify the nature of your company's principal business as it affects the disposition of items to be imported and reexported under this license by including the appropriate letter choice(s) from the following: (a)

manufacturer, (b) distributor, (c) assembler, (d) sales agent, (e) warehouse, (f) service facility, or (g) other. For other, provide an explanation in Block 9.

(ii) Item (b): Indicate the relationship between your company and the applicant's company by providing the appropriate letter choice(s) from the following: (a) wholly-owned subsidiary, (b) independent company, (c) joint venture company, (d) controlled-in-fact affiliate, (e) contractor/subcontractor, or (f) other. For other, provide an explanation in Block 9.

(iii) Item (c): Enter the number of years of relationship between your company and the applicant company.

(iv) Item (d): Enter the estimated dollar volume of sales or other transactions with the SCL holder during the last twelve month period before submission of the application for an SCL.

(v) Item (e): Enter an estimated dollar volume proposed under this application for the validity period of the SCL.

Block 8: Disposition or Use of Items.

(i) Item (a): Complete this Block if your company is requesting involvement in end-user activities that involves

importing items for the company's own use (e.g., as capital equipment).

(ii) Item (b): Complete this Block if your company is requesting involvement in end-user activities that incorporates items received under the SCL into a new end-product that results in a change of identity of the U.S.-item (e.g., U.S.-origin semiconductor devices are included in a foreign-origin test instrument). Under Block 9, Additional Information, describe the new end-product more specifically and state how and to what extent the U.S.-origin items will be used. Complete and attach Form BXA-752-A, Reexport Territories.

(iii) Item (c): Complete this Block if your company is requesting authorization to reexport items for service and/or repair. Complete and attach Form BXA-752-A. If you plan to reexport to end-users that require prior approval by BXA, also complete and attach Form BXA-748P-B, End-User Appendix.

(iv) Item (d): Complete this Block if your company plans to retransfer/resell within the country of import. State the end-use of your customers. If you plan to retransfer to end-users that require prior approval by BXA, complete and attach Form BXA-748P-B, End-User Appendix.

(v) Item (e): Complete this Block if your company plans to reexport. Complete and attach Form BXA-752-A. If you plan to reexport to end-users that require prior approval by BXA, complete and attach Form BXA-748P-B, End-User Appendix.

(vi) Item (f): This item should be completed for "other" activities that are not defined in Block 8 paragraphs (a) through (e). Describe the proposed activities fully in Block 9 or in a letter submitted with this Form, and complete and submit Form BXA-752-A, indicating the countries to which the products derived from these activities will be exported.

Block 9: Additional Information. In addition to any information that supports other Blocks, indicate whether your company is an active consignee under any other license issued by BXA. Indicate the license and consignee numbers.

Block 10: Signature of Official of Ultimate Consignee. Include an original signature. The authority to sign Form BXA-752 may not be delegated to any person whose authority to sign is not inherent in his/her official position with the company. The signing official must include their official title with their signature. All copies must be co-signed by the applicant in the SCL holder signature block and submitted with the application to BXA.

77. Supplement No. 4 to part 752 is revised to read as follows:

SUPPLEMENT NO. 4 TO PART 752 - INSTRUCTIONS FOR COMPLETING FORM
BXA-752-A, REEXPORT TERRITORIES

All information must be legibly typed within the lines for each Block or Box.

Block 1: Application Control No. Insert the application control No. from the relevant Form BXA-748P.

Block 2: SCL License No. Leave blank for new SCL applications. For changes to existing SCLs, include the original SCL number.

Block 3: Consignee No. Leave blank for new SCL applications. For changes to existing SCLs, include the consignee number that was provided on the original license.

Block 4: Continuation of BXA-752 Question No. Mark an "x" in the box next to each country you wish to select. See §752.4 of this part for countries that are not eligible for the SCL. You may request a country that is not included on Form BXA-752-A by marking an "x" in the "other" box and including the country name.

78. Supplement No. 5 to part 752 is revised to read as follows:

SUPPLEMENT NO. 5 TO PART 752 - INSTRUCTIONS FOR COMPLETING FORM
BXA-748-B, END-USER APPENDIX

All information must be legibly typed within the lines for each Block or Box.

Block 1: Application Control No. Insert the application control No. from the relevant Form BXA-748P.

Block 19: End-user. Enter each end-user's complete name, street address, city, country, postal code and telephone or facsimile number. Post Office (P.O.) Boxes are not acceptable.

Block 21: Continuation of Specific End-Use Information. Include any additional information that may help BXA in reviewing and making a determination on your application, such as the special safeguards that will be implemented to prevent diversion.

Block 24: Continuation of Additional Information. Enter additional data pertinent to the transaction as required by part 752. Enter the consignee name and complete address of the

consignee responsible for the end-user(s) (i.e., recordkeeping and ICP screening, etc.).

PART 754 - [AMENDED]

79. Section 754.6 is amended by revising paragraph (c) to read as follows:

§754.6 Registration of U.S. agricultural commodities for exemption from short supply limitations on export.

* * * * *

(c) Mailing address. Submit applications pursuant to the provisions of section 7(g) of the EAA to: Bureau of Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, D.C. 20044.

80. Section 754.7 is amended by revising paragraph (d) to read as follows:

§754.7 Petitions for the imposition of monitoring or controls on recyclable metallic material; public hearings.

* * * * *

(d) Mailing address. Submit petitions pursuant to section 7(c) of the EAA to: Bureau of Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, D.C. 20044.

PART 756 - [AMENDED]

81. Section 756.1 is amended by revising the third sentence of paragraph (a) to read as follows:

§756.1 Introduction.

(a) * * * Any person directly and adversely affected by an administrative action taken by the Bureau of Export Administration (BXA) may appeal to the Under Secretary for reconsideration of that administrative action. * * *

* * * * *

82. Section 756.2 is amended by revising paragraph (b)(4)(ii), to read as follows:

§756.2 Appeal from an administrative action.

* * * * *

(b) * * *

(4) * * *

(ii) Evidence. The rules of evidence prevailing in courts of law do not apply, and all evidentiary material deemed by the Under Secretary to be relevant and material to the proceeding, and not unduly repetitious, will be received and considered.

* * * * *

PART 758 - [AMENDED]

83. Section 758.1 is amended:

- a. By revising paragraph (b)(2);
- b. By revising the first sentence of paragraph (d)(2)(vi);
- c. By revising paragraph (e)(1)(i)(A);
- d. By revising paragraph (e)(1)(i)(C); and
- e. By revising the phrase "No License Required" of the applicable" to read "No License Required", or the applicable" in paragraph (f)(2)(ii).

§758.1 Export clearance requirements.

* * * * *

(b) * * *

(2) Forwarding agent as licensee. If the forwarding agent is appointed at the suggestion of a foreign buyer, the seller may insist that the agent apply for the export license. See §748.5(a)(1) of the EAR which defines parties to a transaction.

* * * * *

(d) * * *

(2) * * *

(vi) Software and technology. If you are exporting software or technology, the export of which is authorized under the License Exceptions in §740.6 or §740.13 of the EAR, you do not need to make any notation on the package. * * *

* * * * *

(e) * * *

(1) * * *

(i) * * *

(A) Any shipment, other than a shipment made under a license issued by BXA, to any country in Country Group B (see Supplement No. 1 to part 740 of the EAR) or to the People's Republic of China if the shipment is valued at \$2,500 or less per

Schedule B Number (or other number acceptable to the Foreign Trade Division, Bureau of the Census). The Schedule B number of an item is shown in the current edition of the Schedule B, Statistical Classification of Domestic and Foreign Commodities Exported from the United States. In paragraph (e) of this section, "shipment" means all items classified under a single Schedule B number (or other number acceptable to the Foreign Trade Statistics Division, Bureau of the Census), shipped on the same carrier, from one exporter to one importer. The Foreign Trade Statistics Regulations of the Bureau of the Census (15 CFR part 30) shall govern the valuation of items when determining whether a shipment meets the \$2,500 threshold of this paragraph.

(B) * * *

(C) Any shipment made under any other exception to the SED requirements found in Subpart B of the Bureau of the Census' Foreign Trade Statistics Regulations.

* * * * *

84. Section 758.2(c) is amended by revising the term "OEXS" to read "BXA".

85. Section 758.3 is amended:

a-b. By revising the introductory text of paragraph (f)(1);

c. By revising paragraph (g);

d. By revising paragraph (h)(1);

e. By revising the introductory text of paragraph (m)(3)(ii)(C);

f. By revising paragraph (m)(3)(iii); and

g. By revising paragraph (o)(2), as follows:

§758.3 Shipper's Export Declaration (SED).

* * * * *

(f) * * *

(1) General. Except as described in paragraph (f)(2) of this section, more than one item may be listed on the same SED provided they are contained in one shipment on board a single carrier and are going from the same exporter to the same consignee. Even if some of the items are being shipped under authority of a license and others under a License Exception or the "No License Required" (NLR) provisions of the EAR (as described in §758.1(a) of this part), they may still be shown on one SED. For the second and subsequent authorizations used, the applicable license number and expiration date, License Exception symbol, or the symbol NLR must be shown along with the

descriptions (including quantity, if required, Schedule B number or other number acceptable to the Foreign Trade Division, Bureau of the Census, and value) to which each authorization applies must be shown under each of the properly aligned line item descriptions. The following apply for notations made on the SED:

* * * * *

(g) Schedule B number and item description. (1) Schedule B number. You must enter the Schedule B number (or other number acceptable to the Foreign Trade Division, Bureau of the Census), as shown in the current edition of Schedule B, Statistical Classification of Domestic and Foreign Commodities Exported from the United States, in the designated column of the SED or other number acceptable to the Foreign Trade Division, Bureau of the Census regardless of whether the shipment is being exported under authority of a license issued by BXA, a License Exception described in part 740 of the EAR, or the "No License Required" (NLR) provisions of the EAR as described in §758.1(a) of this part.

(2) Item description for exports under a license.

(i) General. If your export is being made under the authority of a license issued by BXA, you must enter the item

description shown on the license on the SED. However, if part of the description on the license is underlined, you need place only the underlined portions on the SED. The item description on the license will be stated in CCL terms, which may be inadequate to meet Census Bureau requirements. In this event, the item description you place on the SED must be given enough additional detail to permit verification of the Schedule B number (or other number acceptable to the Foreign Trade Division, Bureau of the Census) (e.g., size, material, or degree of fabrication).

(ii) Distinguishing characteristics or specifications.

If a commodity classification in Schedule B (or other schedule acceptable to the Foreign Trade Division, Bureau of the Census) has instructions such as "specify by name", "state species", etc., you must furnish that information in the column of the SED provided for the commodity description. When a single SED covers more than one item classifiable under a single classification carrying the "specify by name" or similar requirement, you must enter each item separately in this column. However, if more than five items are involved, all classifiable under one Schedule B number or "other number acceptable to the Foreign Trade Division, Bureau of the Census" only the five items of greatest value in the classification need be shown separately. Separate quantities, values, and shipping weights for individual items are not required in either case.

(3) Item description for License Exception shipments or shipments for which no license is required. For items that may be exported under authority of a License Exception, or under the NLR provisions of the EAR (as described in §758.1(a) of this part), you must enter a description in sufficient detail to permit review by the U.S. Government and verification of the Schedule B number or "other number acceptable to the Foreign Trade Division, Bureau of the Census" entered on the SED.

(h) * * *

(1) Exports under the authority of a license issued by BXA. You must show the license number and expiration date, the Export Control Classification Number (ECCN) and the item description, in the designated spaces of a SED covering an export under a license issued by BXA (the space for the item description on the SED form may be headed "commodity description"). If you intend to include other items on the SED that may be exported under a License Exception, or under the "No License Required" (NLR) provisions of the EAR (as described in §758.1(a) of this part) you must show the License Exception or NLR symbol, along with the specific description (quantity, Schedule B number or "other number acceptable to the Foreign Trade Division, Bureau of the Census", value) of the item(s) to which the authorization applies in the designated spaces on the SED continuation sheet.

* * * * *

(m) * * *

(3) * * *

(ii) * * *

(C) For intransit shipments of items of U.S.-
origin eligible for the intransit provisions of License Exception
TMP (see §740.9(b) of the EAR), enter the following statement:

* * * * *

(iii) The items must be described in terms of Schedule
B, including the appropriate Schedule B number or "other number
acceptable to the Foreign Trade Division, Bureau of the Census".

* * * * *

(o) * * *

(2) Applicability. Approved parties may file monthly SEDs
with the Bureau of the Census for export to destinations in
Country Groups B and D (see Supplement No. 1 to part 740 of the
EAR).

* * * * *

86. Section 758.7(b)(6) is amended by revising the phrase "both customs officials" to read "both Customs officials" in the third sentence.

PART 762 - [AMENDED]

87. Section 762.3(a)(7) is amended by revising the phrase "Parking material" to read "Packing material".

PART 764 - [AMENDED]

88-89. Section 764.2 is amended by revising paragraph (f) to read as follows:

§764.2 Violations.

* * * * *

(f) Possession with intent to export illegally. No person may possess any item controlled for national security or foreign policy reasons under sections 5 or 6 of the EAA:

(1) With intent to export or reexport such item in violation of the EAA, the EAR, or any order, license or authorization issued thereunder; or

(2) With knowledge or reason to believe that the item would be so exported or reexported.

* * * * *

90. Section 764.3 is amended:

- a. By revising paragraph (b)(1);
- b. By revising paragraph (b)(2)(i);
- c. By revising paragraph (b)(2)(ii); and
- d. By revising paragraph (b)(2)(iii), as follows:

§764.3 Sanctions.

* * * * *

(b) * * *

(1) General. Except as provided in paragraph (b)(2) of this section, whoever knowingly violates or conspires to or attempts to violate the EAA, EAR, or any order or license issued thereunder, shall be fined not more than five times the value of the exports or reexports involved or \$50,000, whichever is greater, or imprisoned not more than five years, or both.

(2) Willful violations.

(i) Whoever willfully violates or conspires to or attempts to violate any provision of the EAA, the EAR, or any order or license issued thereunder, with knowledge that the exports involved will be used for the benefit of, or that the destination or intended destination of items involved is, any controlled country or any country to which exports or reexports are controlled for foreign policy purposes, except in the case of an individual, shall be fined not more than five times the value of the export or reexport involved or \$1,000,000, whichever is greater; and, in the case of an individual, shall be fined not more than \$250,000, or imprisoned not more than 10 years, or both.

(ii) Any person who is issued a license under the EAA or the EAR for the export or reexport of any items to a controlled country and who, with knowledge that such export or reexport is being used by such controlled country for military or intelligence gathering purposes contrary to the conditions under which the license was issued, willfully fails to report such use to the Secretary of Defense, except in the case of an individual, shall be fined not more than five times the value of the exports or reexports involved or \$1,000,000, whichever is greater; and in

the case of an individual, shall be fined not more than \$250,000, or imprisoned not more than five years or both.

(iii) Any person who possesses any item with the intent to export or reexport such item in violation of an export control imposed under sections 5 or 6 of the EAA, the EAR, or any order or license issued thereunder, or knowing or having reason to believe that the item would be so exported or reexported, shall, in the case of a violation of an export control imposed under section 5 of the EAA (or the EAR, or any order or license issued thereunder with respect to such control), be subject to the penalties set forth in paragraph (b)(2)(i) of this section and shall in the case of a violation of an export control imposed under section 6 of the EAA (or the EAR, or any order or license issued thereunder with respect to such control), be subject to the penalties set forth in paragraph (b)(1) of this section.

* * * * *

91. Section 764.5 is amended:

a. By revising paragraph (c)(4)(ii);

b. By amending paragraph (c)(7), as follows:

i. By revising the phrase "Facsimile: (617) 835-6039" to read "Facsimile: (617) 565-6039" under the paragraph for "Boston Field Office";

ii. By revising the phrase "Facsimile: (214) 729-9299" to read "Facsimile: (214) 767-9299" under the paragraph for "Dallas Field Office";

iii. By revising the phrase "Facsimile: (714) 791-9103" to read "Facsimile: (714) 251-9103" under the paragraph for "Los Angeles Field Office"; and

iv. By revising the phrase "Facsimile: (718) 370-8226" to read "Facsimile: (718) 370-0826" under the paragraph for "New York Field Office".

§764.5 Voluntary self-disclosure.

* * * * *

(c) * * *

(4) * * *

(ii) Any relevant documents not attached to the narrative account must be retained by the person making the disclosure until OEE requests them, or until a final decision on the disclosed information has been made. After a final decision, the documents should be maintained in accordance with the recordkeeping rules in part 762 of the EAR.

* * * * *

PART 768 - [AMENDED]

92. Section 768.1(d) is amended by revising the phrase "Kyrgystan" to read "Kyrgyzstan" under the definition for "Controlled countries".

PART 770 - [AMENDED]

93. Section 770.2 is amended:

a. By revising the phrase "their original identify" to read "their original identity" in paragraph (g)(3);

b. By revising the phrase "Slovak Republic," to read "Slovakia," in the introductory text of paragraph (k); and

c. By revising the phrase "N-Methyl-3-piperidonol" to read "N-Methyl-3-piperidinol" in paragraph (k)(26).

94. Section 770.3(c)(1) is amended:

a. By revising the phrase "is subject to the EAR is the same manner" to read "is subject to the EAR in the same manner"; and

b. By revising the phrase "described at §732.4 of the EAR." to read "described in §734.4 of the EAR.".

95. Section 770.3 is further amended:

a. By revising the phrase "described at §732.4 of the EAR." to read "described in §734.4 of the EAR.", in paragraph (c)(2);

b. By revising paragraph (d)(1)(i)(B);

c. By revising paragraph (d)(1)(ii); and

d. By revising paragraph (d)(2)(ii), as follows:

§770.3 Interpretations related to exports of technology and software to destinations in Country Group D:1.

* * * * *

(d) * * *

(1) * * *

(i) * * *

(B) Can we send an engineer (with knowledge and experience) to the customer site to perform the installation or repair, under the provisions of License Exception TSU for operation technology and software described in §740.13(a) of the EAR, if it is understood that he is restricted by our normal business practices to performing the work without imparting the knowledge or technology to the customer personnel?

(ii) Answer 1. Export of technology includes release of U.S.-origin data in a foreign country, and "release" includes "application to situations abroad of personal knowledge or technical experience acquired in the United States." As the release of technology in the circumstances described here would exceed that permitted under the License Exception TSU for operation technology and software described in §740.13(a) of the EAR, a license would be required even though the technician could apply the data without disclosing it to the customer.

(2) * * *

(ii) Answer 2. (A) Provided that this is your normal training, and involves technology contained in your manuals and standard instructions for the exported equipment, and meets the other requirements of License Exception TSU for operation technology and software described in §740.13(a), the training may be provided within the limits of those provisions of License Exception TSU. The location of the training is not significant, as the export occurs at the time and place of the actual transfer or imparting of the technology to the customer's engineers.

(B) Any training beyond that covered under the provisions of License Exception TSU for operation technology and software described in §740.13(a), but specifically represented in your license application as required for this customer

installation, and in fact authorized on the face of the license or a separate technology license, may not be undertaken while the license is suspended or revoked.

PART 772 - [AMENDED]

96. Part 772 is amended:

a. By revising the citation reference "§748.4" to read §748.5" in the definition for "Applicant";

b. By revising the phrase "perform (a) specific function" to read "perform a specific function" in the definition for "Assembly";

c. By revising the definition for "CCL Group";

d. By revising the definition for "Category";

e. By revising the phrase "application for International Import Certificate; International Import Certificate; Delivery Verification Certificate" to read "application for International Import Certificate; Delivery Verification Certificate" in the definition for "Export control document";

f-g. By revising the definition of "Required";

h. By revising the phrase "Mixed sequence manipulation" to read "Fixed sequence manipulation" as it appears in paragraph (b) to the Note under the definition for "Robot";

i. By revising the phrase "commodities, Software, technology" to read "commodities, software, technology" in the definition for "Subject to the EAR";

j. By revising the phrase "by low of elongation" to read "by low elongation" in the definition for "Superplastic forming"; and

k. By revising the citation reference "§748.4(b)(5)" to read "§748.5(e)", in the definition for "Ultimate Consignee".

PART 772 -- DEFINITIONS OF TERMS

* * * * *

CCL Group. The Commerce Control List (CCL) is divided into 10 categories. Each category is subdivided into five groups, designated by the letters A through E: (A) Equipment, assemblies and components; (B) Test, inspection and production equipment; (C) Materials; (D) Software; and (E) Technology. See §738.2(b) of the EAR.

* * * * *

Category. The Commerce Control List (CCL) is divided into ten categories: (0) Nuclear Materials, Facilities and Equipment, and Miscellaneous; (1) Materials, Chemicals, "Microorganisms", and

Toxins; (2) Materials Processing; (3) Electronics Design, Development and Production; (4) Computers; (5) Telecommunications and Information Security; (6) Sensors; (7) Navigation and Avionics; (8) Marine; (9) Propulsion Systems, Space Vehicles, and Related Equipment. See §738.2(a) of the EAR.

* * * * *

"Required". As applied to "technology" or "software", refers to only that portion of "technology" or "software" which is peculiarly responsible for achieving or extending the controlled performance levels, characteristics or functions. Such "required" "technology" or "software" may be shared by different products. For example, assume product "X" is controlled if it operates at or above 400 MHz and is not controlled if it operates below 400 MHz. If production technologies "A", "B", and "C" allow production at no more than 399 MHz, then technologies "A", "B", and "C" are not "required" to produce the controlled product "X". If technologies "A", "B", "C", "D", and "E" are used together, a manufacturer can produce product "X" that does not operate at or above 400 MHz. In this example, technologies "D" and "E" are "required" to make the controlled product and are themselves controlled under the General Technology Note. (See the General Technology Note.)

* * * * *

DATED:

Sue E. Eckert

Assistant Secretary

for Export Administration